

N.D.A.G. Letter to Hanson (Oct. 29, 1986)

October 29, 1986

Honorable Robert Hanson
State Treasurer
State Capitol
Bismarck, ND 58505

Dear Bob:

Thank you for your letter of October 1, 1986, requesting information on the legality of consumer samplings of alcoholic beverages and your follow-up telephone call in which you requested information on whether retail establishments could buy alcoholic beverages from other retail establishments.

In response to your telephonic question of whether retail establishments may purchase alcoholic beverages from other retail businesses, I am forwarding to you a copy of a January 6, 1983, letter to Hazen Evans, the manager of the Square Deal Bar. By this letter, we have concluded that a retailer may not purchase alcoholic beverages from another retailer. I have also updated the research since the time of that letter and find no recent cases nor legislation which would change the opinion expressed in that letter.

In your October 1 letter you requested information concerning the legality of retailers and/or wholesalers conducting alcoholic beverage tasting sessions. I am including a copy of a July 8, 1983, letter and a 1981 Attorney General's Opinion (1981 N.D. Op. Att'y Gen. 120) which address this issue. Essentially, this office has concluded that state law does not prohibit the sampling of alcoholic beverages upon licensed premises. However, this activity may be regulated by a local governing body. I have again updated the research on that topic and can find no case law nor any legislative history which would change the opinions expressed in the 1981 or 1983 communication.

The second part of your letter addressed the concern of whether wholesalers could also conduct these tasting sessions at retail sites. Making the assumption that there is no local prohibition against a wholesaler furnishing alcoholic beverages for a tasting session, then there does not appear to be any prohibitions contained in the Century Code or in the legislative history of those enactments.

Sincerely,

Nicholas J. Spaeth

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Enclosure